

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEREK MILLER,

Defendant.

4:19-CR-3125

ORDER

The parties' recent filings in this case present a complex and fact-intensive dispute over the defendant's medical condition and his eligibility for the federal benefits he received. *See, e.g.*, [filing 75](#); [filing 76](#); [filing 82](#); [filing 85](#); [filing 86](#). It has become apparent, after conferring with the parties, that their dispute as currently presented, as it relates to the loss calculation and assessment of restitution, will require more time and attention to resolve than the current sentencing schedule permits.¹ Accordingly,

IT IS ORDERED:

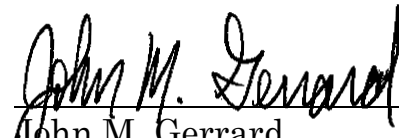
1. The sentencing hearing currently set for August 26, 2021 is continued pending further order of the Court.

¹ The Court again notes that, regardless of how the Court decides the facts, what appears to be at stake here is *at most* a two-level enhancement in the offense level, along with a restitution order that (1) the defendant may or may not be able to satisfy and (2) is likely the subject of civil recovery by the government anyway. The parties are again encouraged to consider whether there is enough juice here to be worth the squeeze, so to speak.

2. An evidentiary hearing on the defendant's motion for departure or variance ([filing 79](#)) and objections to the presentence report ([filing 82](#)) is set for Tuesday, September 21, 2021 at 1:00 p.m. in Courtroom 1, Robert V. Denney Federal Building, 100 Centennial Mall North, Lincoln, NE before Judge John M. Gerrard.
3. Any exhibits or medical records to be adduced at the hearing shall be delivered to the Court, on or before Friday, September 17, 2021, in a three-ring binder organized for use by dividers or tabs.
4. The Court's tentative sentencing findings will be entered after the evidentiary hearing.
5. The defendant's motion to extend ([filing 87](#)) is granted. Additional briefing on loss calculation and restitution (if necessary) will be scheduled after the evidentiary hearing.

Dated this 6th day of August, 2021.

BY THE COURT:



John M. Gerrard
United States District Judge